

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GREGORY JOHNSON, et al.,

Plaintiff,

-against-

COSTCO WHOLESALE CORP.,

Defendant.
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USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 3/27/2020

20-cv-2169 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

I am in receipt of Defendant's March 19, 2020, letter motion to transfer this action to the Eastern District of New York, (Doc. 10), and Plaintiff's March 24, 2020, letter response in opposition, (Doc. 15.)

The Local Rules of the United States District Courts for the Southern and Eastern Districts of New York provide that "[a]pplications for extensions or adjournments, applications for a pre-motion conference, and similar non-dispositive matters as permitted by the instructions regarding ECF published on the website of each respective Court and any pertinent Individual Judge's Practices may be brought by letter-motion." Local Rule 7.1(d). Otherwise, requests for relief must be brought by notice of motion or order to show cause, and must be accompanied by a "memorandum of law, setting forth the cases and other authorities relied upon in support of the motion," and "[s]upporting affidavits and exhibits thereto containing any factual information and portions of the record necessary for the decision of the motion." *Id.* 7.1(a). My Individual Rules do not permit a substantive motion, such as a motion to transfer venue, to be brought by letter-motion.

Under 28 U.S.C. § 1404(a), a district court may transfer the suit to another district if “the transferee district [is] one where jurisdiction over the defendant could have been obtained at the time suit was brought,” and if “the transfer [is] in the interest of justice and convenience of the parties and witnesses.” *Heritage Lace, Inc. v. Underwraps Costume Corp.*, No. 18-CV-9796 (JPO), 2019 WL 3858585, at *5 (S.D.N.Y. Aug. 16, 2019). The party seeking a discretionary transfer under that provision bears the burden of demonstrating, by clear and convincing evidence, that transfer is justified. *Xiu Feng Li v. Hock*, 371 Fed. App’x. 171, 175 (2d Cir. 2010).

“[M]otions for transfer lie within the broad discretion of the district court and are determined upon notions of convenience and fairness on a case-by-case basis.” *Lapushner v. Admedus Ltd.*, No. 18-CV-11530 (ALC), 2020 WL 777332, at *2 (S.D.N.Y. Feb. 14, 2020) (quoting *In re Cuyahoga Equip. Corp.*, 980 F.2d 110, 117 (2d Cir. 1992).) Courts consider the following factors to determine whether transfer is warranted: “(1) the plaintiff’s choice of forum, (2) the convenience of witnesses, (3) the location of relevant documents and relative ease of access to sources of proof, (4) the convenience of parties, (5) the locus of operative facts, (6) the availability of process to compel the attendance of unwilling witnesses, [and] (7) the relative means of the parties.” *Id.* at *3 (S.D.N.Y. Feb. 14, 2020) (quoting *D.H. Blair & Co., Inc. v. Gottdiener*, 462 F.3d 95, 106–07 (2d Cir. 2006)).

In light of the foregoing, it is hereby:

ORDERED that Defendant’s motion is denied without prejudice to renewal by motion accompanied by a memorandum of law and any relevant evidentiary submissions that address the factors set forth in *D.H. Blair*, 462 F.3d at 95.

SO ORDERED.

Dated: March 27, 2020
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive style with a large, stylized "V" and "B".

Vernon S. Broderick
United States District Judge